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SUBJECT: LOS:GROUP OF 5 CONSULTATIONS, JUNE 21-24

1. SUMMARY: GROUP OF 5 ACROSS THE BOARD DISCUSSIONS OF LOS ISSUES INCLUDING PROCEDURES FOR THE NEXT CONFERENCE SESSION REVEALED THAT THE DEEP SEABED ISSUES, SCIENTIFIC RESEARCH AND COASTAL STATE STANDARDS SETTING REGARDING VESSEL SOURCE POLLUTION IN THE TERRITORIAL SEA REMAIN THE MAJOR OUTSTANDING ISSUES AMONG THE MEMBERS OF THE GROUP. ONLY THE UK INQUIRED ABOUT THE SECRETARY'S PARTICIPATION AT THE NEXT SESSION WHICH US INDICATED WAS STILL UNDER CONSIDERATION IN WASHINGTON. THE GROUP AGREED TO MEET AGAIN AT THE VERY BEGINNING OF THE AUGUST SESSION. END SUMMARY.

2. COMMITTEE I PROCEDURE: MOST MEMBERS OF GROUP OF 5 INDICATED AWARENESS OF DANGERS OF FURTHER RELIANCE ON CHAIRMAN OF CI TO PRODUCE A NEW REVISED SNT AS ATTRACTIVE TO INDUSTRIALIZED COUNTRIES AS PRESENT SNT. PROBABLE

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PROCEDURE TO BE FOLLOWED WILL BE GROUP OF 5 SUPPORT FOR  
CREATION OF A

NEGOTIATING GROUP OF ABOUT 25 OR 30 WITH CLEAREST POSSIBLE  
UNDERSTANDING IN CI THAT THIS GROUP WOULD HAVE TO NEGOTIATE  
TEXTS BEFORE THEY WERE USED AS CHAIRMAN'S REVISED  
TEXTS.

3. GENERAL: ALL DELEGATIONS AGREED THAT NEW REVISED SNT  
SHOULD BE CONSIDERED AS A MAJOR IMPROVEMENT ALTHOUGH EACH  
DELEGATION EXPRESSED SOME RESERVATIONS ON ASPECTS OF THE  
TEXT ALREADY NEGOTIATED.

4. ARTICLE 9 AND PARAGRAPH 21 (ANNEX I): ALL DELEGATIONS  
AGREED THAT THEY COULD ACCEPT ARTICLE 9 AND PARAGRAPH 21  
WITHOUT AMENDMENTS ALTHOUGH THE FRENCH AND THE USSR  
RESERVED ON THE 6% GROWTH RATE IN PARAGRAPH 21 UNTIL  
THEIR EXPERTS HAD AN OPPORTUNITY TO VERIFY THE ACCURACY  
OF THE FIGURE. QUESTIONS WERE RAISED REGARDING THE  
SENTENCE IN ARTICLE 9 WHICH GIVES THE AUTHORITY POWER TO  
IMPLEMENT DECISIONS OF A COMMODITY CONFERENCE THOUGH  
THIS SENTENCE DID NOT GIVE ANY DELEGATION GREAT DIFFICULTY.  
THE FRENCH INDICATED THEY HAVE DROPPED THEIR DEMAND FOR  
A NICKEL COMMODITY AGREEMENT.

5. ARTICLE 22 AND THE ACCESS SYSTEM: ALL DELEGATIONS  
AGREED THAT THE ACCESS SYSTEM COULD BE IMPROVED THOUGH  
ALL EXCEPT THE US INDICATED THEY COULD IF NECESSARY ACCEPT  
IT AS IS. THE US DESCRIBED SEVEN POSSIBLE OPTIONS FOR  
IMPROVING ACCESS; (A) SECRETARIAT APPROVAL OF CONTRACTS  
OR TECHNICAL COMMISSION APPROVAL; (B) REQUIRING THE  
COUNCIL TO STATE THE OBJECTIVE CRITERIA ON WHICH IT  
DENIED AN APPLICATION AND GIVING THE APPLICANT AN  
OPPORTUNITY TO REMEDY THE DEFECT; (C) APPROVAL OF CONTRACTS  
BY THE TECHNICAL COMMISSION WITH TACIT APPROVAL BY THE  
COUNCIL. IF THE COUNCIL DENIES AN APPLICATION BY TAKING  
AFFIRMATIVE ACTION, OPTION (B) WOULD APPLY; (D) DRAFTING  
CHANGES TO CONFORM ARTICLES 28, 22 AND ANNEX I TERMINOLOGY;  
(E) REQUIRING THE AUTHORITY TO RESPOND TO APPLICATIONS  
WITHIN A STATED TIME PERIOD OR A "REASONABLE" TIME;  
(F) ALTERING PARAGRAPH 9 OF ANNEX I TO PROVIDE THAT THE

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(G) DRAFTING CHANGES AS OPPORTUNITY PRESENTS ITSELF.

6. THE GROUP FELT IT COULD GENERALLY SUPPORT OPTION (C) COMBINED WITH OPTION (B) PROVIDED IT DID NOT RISK A GENERAL RE-OPENING OF EITHER ARTICLE 22 OR THE ACCESS SYSTEM WHICH WAS THOUGHT TO BE POTENTIALLY DANGEROUS.

7. ON ARTICLE 22 THE USSR RESERVED ITS POSITION OF THE TERM "IN ASSOCIATION WITH" BECAUSE IT IMPLIED TO THEM A

JOINT VENTURE. THE OTHER MEMBERS ARGUED AGAINST THIS VIEW AND SUGGESTED THAT THE USSR FIND ANOTHER WORD IN RUSSIAN TO CREATE A MORE AMORPHOUS MEANING.

8. THE COUNCIL (ARTICLE 27): THE UK, JAPAN AND FRANCE ARE PREPARED TO SUPPORT THE US PROPOSAL IN PRINCIPLE AND TENTATIVELY. ALL REQUIRE FURTHER REVIEW IN CAPITALS. NO DELEGATION AMONG THE 5 WOULD SUPPORT THE US ARTICLE IF PARAGRAPHS 2 AND 6 ARE REMOVED. SOME INDICATED THEY WOULD OPPOSE IT IF PARAGRAPH 6 WERE REMOVED. THE USSR INDICATED GREAT DIFFICULTY WITH PARAGRAPH 1 BECAUSE OF POSSIBLE DISPUTE OVER APPROPRIATE FIGURES BUT FINALLY AGREED TO RECONSIDER AND MAY IN FACT GO ALONG. AT THIS STAGE IT IS NOT POSSIBLE TO SAY THE USSR WILL ACTIVELY SUPPORT BUT BY CLOSE OF MEETING WE THINK RISK OF OPPOSITION NOW VIRTUALLY ELIMINATED. NUMEROUS OTHER DRAFTING AND MINOR SUBSTANTIVE SUGGESTIONS WERE MADE AND WILL BE TAKEN UP IN LOS TASK FORCE IMMEDIATELY AFTER TEAM RETURNS TO WASHINGTON.

9. FINANCIAL ARRANGEMENTS. (ANNEX I PARAGRAPH 9D): ALL DELEGATIONS PREFER APPROACH A IN THE APPENDIX. MINOR DRAFTING CHANGES WERE SUGGESTED. UK, FRANCE, AND JAPAN- AGREED TO STUDY DOMESTIC TAX POLICIES LOOKING TOWARD EXCHANGE OF VIEWS AT NEW YORK SESSION. ALL AGREED THAT NUMBERS SHOWN BE LEFT BLANK PENDING FURTHER EXCHANGE OF VIEWS ON TAX IMPLICATIONS.

10. QUOTA SYSTEM: US FOLLOWED STONEWALL APPROACH. INDICATED NO FLEXIBILITY OR WILLINGNESS TO NEGOTIATE. FRENCH INTRODUCED NEW PROPOSAL WITH ANTI-DENSITY FORMULA LIMITING ANY STATE TO 20 PERCENT OF THE AREA RPT AREA AND 35 PERCENT OF PRODUCTION AT ANY ONE TIME. USSR NOTED VERY FAVORABLE

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CENT TOO HIGH. USSR WAS GENERALLY MORE FLEXIBLE AND  
~~INDICATED THAT A FINAL COMPROMISE IN GROUP OF 5 COULD NOT~~  
~~INCLUDE ONE STATE GIVING UP ENTIRELY. JAPAN INTRODUCED~~  
~~AMENDMENT TO PARAGRAPH 8(B) OF ANNEX I TO GIVE A PREFER-~~  
~~ENCE TO COMPETING APPLICANTS WHO ARE IMPORTERS AND INDICA-~~  
~~TED THEY COULD ACCEPT VERY OPEN AND FLEXIBLE ANTI-~~  
~~DOMINANT ARTICLE IF THEIR AMENDMENT TO PARAGRAPH 8 WAS~~  
~~SUPPORTED. US INDICATED REASONS FOR CONTINUED OPPOSITION~~  
~~TO OPENING PANDORA'S BOX OF DISCRIMINATORY PREFERENCES IN~~  
~~CASE OF COMPETING APPLICATIONS. ALL DELEGATIONS AGREED~~  
~~TO TRY TO DEFER QUOTA ISSUE AS LONG AS POSSIBLE AND AVOID~~  
~~OPEN SPLIT AMONG THE 5 IN NEW YORK.~~

,, FINANCING OF ENTERPRISE: NO DELEGATE HAD NEW PRO-  
POSALS FOR SETTING UP ENTERPRISE BUT ALL AGREED WITH US

ASSESSMENT THAT UNLESS METHOD IS FOUND TO FINANCE ENTER-  
PRISE AND GET IT STARTED QUICKLY LDC'S WOULD UNRAVEL SNT  
IN CI AND CHANCES FOR SUCCESSFUL CONFERENCE WOULD DIMINISH  
IF NOT DISAPPEAR. USSR INDICATED NO FLEXIBILITY ON  
ISSUANCE OF SHARES AS METHOD OF FINANCING AND IMPLIED THAT  
THEY MIGHT PREFER MANDATORY ASSESSMENTS OF STATES PARTIES  
THOUGH THIS WAS NOT THEIR PRESENT VIEW. THEY SAID THIS  
SUBJECT NOW UNDER INTENSIVE REVIEW IN MOSCOW.

12. DISPUTE SETTLEMENT SYSTEM: IN WHAT HOPEFULLY WAS A  
TEMPORARY AND TACTICAL HARDENING OF POSITION USSR WITHDREW  
SUPPORT FOR PRIOR AGREEMENT WITH US ON DISPUTE SETTLE-  
MENT NOW REFLECTED IN MAIN ARTICLES OF SNT. IN  
PARTICULAR THEY EMBRACED ANNEX III, PURE AD HOC ARBITRA-  
TION AND OPPOSED ANY REPEAT ANY PRIVATE ACCESS. FRANCE  
AND UK STILL WILLING TO EXPLORE NEW YORK COMPROMISE OF  
ARBITRATION COUPLED WITH PROCEDURE FOR RESOLVING CON-  
FLECTING DECISIONS. JAPAN INDICATED GREAT FLEXIBILITY  
AND COULD MOVE EITHER WAY. US MAINTAINED INSISTENCE ON  
PERMANENT TRIBUNAL BUT INDICATED IT STILL WILLING TO  
EXPLORE NEW YORK COMPROMISE.

13. PROVISIONAL APPLICATION: MOST DELEGATES SEEM READY  
TO ACCEPT PROVISIONAL APPLICATION ONLY OF CONVENTION AS  
A WHOLE THOUGH FRENCH HAVE GREATEST DIFFICULTY. USSR  
INSISTS HOWEVER THAT MATTER BE DECIDED IN PLENARY BEFORE  
COMMITTEE

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## APPLICATION.

## 14. C2-GENERAL:THE GROUP OF FIVE DISCUSSION OF COMMITTEE

II ISSUES INDICATED BROAD AGREEMENT ON SUBSTANTIVE MATTERS WITH CERTAIN EXCEPTIONS INCLUDING A PARTICULARLY SHARP SPLIT (US ON ONE HAND; ALL OTHERS ON THE OTHER) ON THE ISSUE OF COASTAL STATE STANDARD-SETTING IN THE TERRITORIAL SEA (ARTICLE 20, PARAGRAPH 2, RSNT). IN GENERAL, THE POSITIONS OF THE GROUP REFLECTED PREVIOUS CONCERNS ALTHOUGH ALL AGREED THAT THE GROUP SHOULD ATTEMPT TO KEEP AMENDMENTS TO A MINIMUM. IT WAS AGREED THAT TACTICAL QUESTIONS WOULD BE DECIDED BY THE GROUP DURING THE FORTHCOMING SUMMER SESSION. IN PARTICULAR, CLOSE CONSULTATIONS WILL BE MAINTAINED BEFORE FALLBACK AMENDMENTS ARE PUT FORWARD. THE UK AND FRANCE STRESSED THE RELEVANCE OF CONSULTATIONS IN THE EEC, ESPECIALLY ON FISHERIES MATTERS, AND INDICATED THAT THEIR COMMENTS ON THAT SUBJECT WERE TENTATIVE.

15. COASTAL STATE STANDARD-SETTING IN THE TERRITORIAL SEA THE US PRESSED STRONGLY FOR THE DELETION OF ARTICLE 20, PARAGRAPH 2, INDICATING STRONG CONGRESSIONAL AND PUBLIC FEELING ON THE ISSUE. IN THE ABSENCE OF A SUITABLE COMPROMISE, WE WOULD BE COMPELLED TO MAKE A STRONG ATTEMPT TO HAVE THE PARAGRAPH DELETED. THE PROBLEM IN THE CONFERENCE IS THAT THE US WOULD BE COMPELLED TO FIGHT IN COMMITTEE II ALIGNING ITSELF WITH COASTAL STATES ON THE ISSUE. THE US SUGGESTED THAT THE GROUP RECOMMEND TO GOVERNMENTS AT LEAST A PARTIAL COMPROMISE, I.E., THE COMMITTEE II TEXT WOULD PROVIDE THAT THERE WOULD BE NO COASTAL STATE DESIGN, CONSTRUCTION, EQUIPMENT, OR MANNING STANDARDS IN THE TERRITORIAL SEA EXCEPT AS PROVIDED IN THE COMMITTEE III POLLUTION TEXT. ALL OTHER MEMBERS OF THE GROUP VIGOROUSLY OPPOSED DELETING THE ARTICLE. AFTER TWO RATHER CONTENTIOUS CONSIDERATIONS AT THE HEADS OF DELEGATION LEVEL, THE SOVIET UNION STATED THAT THEY WOULD RECOMMEND TO MOSCOW ACCEPTANCE OF THE TEXT AS DRAFTED WITH THE FOLLOWING TACKED ON THE END, "WITHOUT PREJUDICE TO THE PROVISIONS OF PART III." ALL AGREED TO TAKE THIS PROPOSAL BACK TO CAPITALS. JAPAN AND THE UK WERE NOT HOPEFUL OF A POSITIVE RESPONSE IN

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LIGHT OF THIS ATTEMPTED COMPROMISE, ALL AGREED TO MODERATE THEIR COMMENTS DURING THE INTERSESSIONAL PERIOD.

16. STATUS OF THE ECONOMIC ZONE: ALL MEMBERS OF THE GROUP AGREED THAT THE PRESENT FORMULATION OF THE NATURE OF THE ZONE (ARTICLE 75) WAS UNACCEPTABLE AND AGREED THAT THE PRESENT GROUP OF 5 AMENDMENT WAS STILL APPLICABLE. THE GROUP COULD NOT AGREE ON WHETHER THE AUSTRALIAN AMENDMENT WAS AN ACCEPTABLE FALLBACK, WITH JAPAN ESPECIALLY DOUBTFUL FRANCE HAD SERIOUS DOUBTS ABOUT TOTAL DELETION OF THE ARTICLE EVEN IF ARTICLES 44, 46 AND 47 WERE SUITABLY AMENDED. ALL COUNTRIES AGREED IN THIS REGARD THAT ARTICLE 44 WAS UNACCEPTABLE, WITH THE US STATING THAT IT WAS A VERY DANGEROUS PROVISION AS IT HAS BEEN REPEATED IN CERTAIN NATIONAL LAWS.

17. FISHERIES: FRANCE, UK AND JAPAN, BELIEVE THAT COASTAL STATES SHOULD NOT HAVE SOVEREIGN (EXCLUSIVE) RIGHTS OVER LIVING RESOURCES, BUT IT WAS REASONABLY CLEAR THAT THEY WOULD ACCEPT THAT PHRASEOLOGY. JAPAN SOUGHT TO DELETE THE ANNEX TO THE TUNA ARTICLE AND FAVORED GENERALIZING THE DESCRIPTION OF HIGHLY MIGRATORY SPECIES. THE US AGREED IN PRINCIPLE, SUBJECT TO REVIEWING ANY PARTICULAR LANGUAGE. ON SALMON, THE USSR AGAIN SOUGHT TO AMEND THE ARTICLE BY, IN ESSENCE, DELETING REFERENCE TO ECONOMIC DISLOCATION OF THIRD STATES AND INSERTING THE ECONOMIC DISLOCATION OF THE STATE OF ORIGIN.

THEY FURTHER FAVORED PERMITTING THE TAKING OF SALMON ANYWHERE ON THE HIGH SEAS. THE US, UK AND JAPAN OPPOSED THEIR AMENDMENTS, AND THE USSR INDICATED THAT THEIR AMENDMENTS WERE PRO FORMA.

18. DELIMITATION OF THE ECONOMIC ZONE/CONTINENTAL MARGIN BETWEEN OPPOSITE AND ADJACENT STATES: THE USSR PROPOSED DELETING PARAGRAPHS 2 AND 3 OF ARTICLES 62/71. JAPAN PROPOSED A PARAGRAPH 3 SIMILAR IN INTENT TO THAT IN THE GENEVA SNT. THE UK IS STILL STUDYING THE ARTICLE, WHILE FRANCE SUPPORTED THE RSNT FORMULATION.

19. CONTINENTAL SHELF: THE US, FRANCE AND UK IN GENERAL SUPPORTED THE IRISH-CANADIAN FORMULATION OF ARTICLE 64,

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WHILE JAPAN RESERVED ITS POSITION NOTING IT OFFICIALLY FAVORED A 200-MILE LIMIT. IN PARTICULAR, JAPAN DID NOT FIND THE FORMULA PROPOSED IN PARAGRAPH 3A SCIENTIFICALLY SOUND. USSR, WHILE FAVORING A 200-MILE/500-METER FORMULA, ALSO QUESTIONED PARAGRAPH 3A AND OPPOSED THE BOUNDARY COMMISSION (AS DID FRANCE). WITH RESPECT TO REVENUE SHARING, JAPAN AND THE UK SUPPORTED THE US AMENDMENTS. FRANCE AND THE USSR OPPOSED REVENUE SHARING OR RESERVED THEIR POSITIONS RESPECTIVELY BUT COULD SUPPORT THE US AMENDMENTS IN GENERAL. ALL AGREED THAT ISRA SHOULD NOT BE THE CONDUIT FOR THE DISTRIBUTION OF FUNDS, ALTHOUGH JAPAN SAID THAT IN ANY CASE ISRA SHOULD NOT REPEAT NOT BE THE SOLE ORGAN INVOLVED.

10. ARCHIPELAGOS : THE USSR SUGGESTED EARLY USE OF THE 60-MILE BREADTH OF CORRIDOR FALLBACK AS A SIGN OF GOOD FAITH IN THE NEGOTIATION. THE US STRONGLY OPPOSED THIS, AND THE GROUP WILL CONSULT IN NEW YORK ON TACTICS.

21. STRAITS : THE US PROPOSAL TO DELETE "WITH RESPECT TO NAVIGATIONAL AND HYDROGRAPHICAL CHARACTERISTICS," IN ARTICLE 37 BECAUSE ITS MEANING WAS UNCLEAR AND MIGHT UPSET A DELICATE COMPROMISE ON THE ISLANDS EXCEPTION, WAS STRONGLY OPPOSED BY THE USSR ALTHOUGH THEIR REASONS WERE NOT CLEAR. THE GROUP WILL FURTHER CONSULT ON THIS QUESTION.

22. TRANSITIONAL PROVISION : THE US, UK, FRANCE AND JAPAN SUPPORTED DELETING THE ARTICLE AND GIVING CONSIDERATION TO A RESOLUTION OR DECLARATION TO BE ADOPTED BY THE CONFERENCE, WHILE THE USSR STATED THEY DID NOT WANT TO BE PREJUDICED VIS-A-VIS THE LDC'S. THEY IMPLIED THAT THEY WOULD NOT OPPOSE THE EFFORTS OF THE GROUP.

23. (3-MARINE POLLUTION: THE GROUP GENERALLY AGREED WITH OVERALL STRUCTURE OF TEXT ON POLLUTION ALTHOUGH ALL WISHED TO HAVE SOME AMENDMENTS TO VESSEL POLLUTION TEXT. MOST SIGNIFICANT AMENDMENTS WERE AS FOLLOWS. FRANCE ARGUED STRONGLY TO DELETE "MAJOR DAMAGE" LIMITATION ON COASTAL STATE ENFORCEMENT IN ARTICLE 30, ARGUING IT WAS TOO RESTRICTIVE. UK AND USSR OPPOSED FRANCE. UK GENERAL- LY LIKED TEXT BUT WANTED TO RESTRICT PORT-STATE ENFORCEMENT AND GIVE IM

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USSR PREFERRED GOING BACK TO 50 MILES BUT DID NOT PRESS POINT. USSR ALSO WISHED TO MAKE SEVERAL OTHER AMENDMENTS TO DECREASE COASTAL STATE RIGHTS INCLUDING REMOVING MAJOR DAMAGE QUALIFICATION FROM FLAG STATE PRE-EMPTION ARTICLE. JAPAN WAS GENERALLY SATISFIED WITH TEXT ALTHOUGH IT WANTED TO BE ABLE TO IMPRISON PEOPLE FOR TERRITORIAL SEA VIOLATIONS. SOVIETS STRONGLY OPPOSED THIS.

24. SCIENTIFIC RESEARCH: THE USSR SAID THEY WERE NOT PREPARED TO DISCUSS THIS ISSUE AND MADE NO COMMENTS IN EITHER HEADS OF DELEGATION MEETING OR EXPERTS MEETING. DURING PRIVATE LUNCH, SOVIETS MADE NO COMMENTS EXCEPT TO POINT OUT THAT US WAS PARTY TO CONTINENTAL SHELF CONVENTION AND HOW COULD WE EXPECT TO ROLL THAT BACK. FRANCE AND UK WERE EXTREMELY UNHAPPY WITH RNST, PARTICULARLY ARTICLE 60, PARAGRAPH 1, AND ARTICLE 60, PARAGRAPH 2(C). JAPAN DID NOT LIKE TEXT BUT WAS NOT INCLINED TO FIGHT ON ISSUE. ALL EXCEPT USSR AGREED WITH US APPROACH OF COMBINING FIRST 2 PARAGRAPHS OF ARTICLE 60 TO ELIMINATE OVERALL CONSENT REQUIREMENT. UK SAID THAT THEY WERE REVIEWING THEIR POSITION ON CONTINENTAL SHELF RESEARCH.

25. COMPULSORY DISPUTE SETTLEMENT: IN GENERAL THERE WAS RECOGNITION OF NEED FOR THIRD PARTY CDS ALTHOUGH DIFFERENCES AS TO MEANS AND SCOPE OF THE OBLIGATION. UK AND FRANCE EXPRESSED NEED TO SIMPLIFY RSNT, OPPOSED THE LOS TRIBUNAL, APPEALS, AND REFERRAL TO OTHER BODIES; ARTICLES 14/15 NEED FURTHER STUDY; ARTICLE 18 IS UNSATISFACTORY. FRANCE OPPOSED THE MONTREUX FORMULA WHICH THEY MAINTAIN ENCOURAGES UNILATERAL ACTION. THE USSR AND US SUPPORTED THAT FORMULA. THE SOVIETS AND JAPANESE OPPOSED THE EXHAUSTION OF LOCAL REMEDIES. USSR OPPOSED THE LOS TRIBUNAL AND ACCESS BY PRIVATE ENTITIES. (THEY WERE SILENT ON ACCESS BY OWNER OR OPERATOR FOR QUICK RELEASE OF VESSELS. PREVIOUSLY THEY INDICATED SUPPORT FOR SUCH A PROVISION.) ALL AGREED THAT THE

EXCEPTIONS IN ARTICLE 18 SHOULD BE NARROWED. THE USSR OPPOSED ANY REQUIREMENT TO SETTLE BOUNDARY DISPUTES THROUGH THIRD PARTY MEANS AND PREFERRED GENEVA SNT HANDLING OF EXCEPTION RELATING TO UNSC. US AGREED WITH LATTER'S POSITION.

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